

SPENCER HOSIE (CA Bar No. 101777)
 shosie@hosielaw.com
 BRUCE WECKER (CA Bar No. 078530)
 bwecker@hosielaw.com
 GEORGE F. BISHOP (CA Bar No. 89205)
 gbishop@hosielaw.com
 HOSIE RICE LLP
 188 The Embarcadero, Suite 750
 San Francisco, CA 94105
 (415) 247-6000 Tel.
 (415) 247-6001 Fax

*Attorneys for Defendant/Counter-claimant
 IMPLICIT NETWORKS, INC.*

Additional counsel listed on signature pages

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

SUN MICROSYSTEMS INCORPORATED,

Plaintiff/Counter-defendant,

v.

IMPLICIT NETWORKS, INC.

Defendant/Counter-claimant.

Case No. CV 09-0201 SI

**STIPULATED MOTION TO
 CONSOLIDATE CASES PURSUANT TO
 FED. R. CIV. P. 42(A) AND [PROPOSED]
 ORDER**

IMPLICIT NETWORKS, INC.,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
 CORPORATION, ORACLE CORPORATION,
 SAP AMERICA, INC., AND ADOBE
 SYSTEMS INCORPORATED,

Defendants.

Case No. CV 09-1342 BZ

IT IS HEREBY STIPULATED by and between all parties to the two above-captioned actions, by their counsel of record, as follows:

WHEREAS the action entitled *Sun Microsystems, Incorporated v. Implicit Networks, Inc.*, Case No. CV 09-0201 SI (“*Sun v. Implicit*”) is pending in this Court, and whereas the action entitled *Implicit Networks, Inc. v. International Business Machines Corporation, Oracle Corporation, SAP America, Inc. and Adobe Systems Incorporated*, Case No. C08-01080, was transferred from the Western District of Washington pursuant to 28 U.S.C. § 1404(a) by order of that court dated March 19, 2009, for purposes of consolidation with *Sun v. Implicit* (and has been assigned Case Number C 091342 BZ by the Northern District of California); and

WHEREAS all parties agree that these cases are related pursuant to Local Rule 3-12, such that there would be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges, and

WHEREAS all parties to the above-captioned actions agree that these two actions should be consolidated pursuant to Fed. R. Civ. Proc. 42(a), because these two actions are, respectively, a patent declaratory relief action and a patent damages action, both of which are based upon the same two U.S. Patents and are likely to involve similar claims, issues and defenses;

THEREFORE IT IS HEREBY STIPULATED that the two above captioned actions are consolidated, pursuant to Fed. R. Civ. Proc. 42(a), for all purposes including trial.

Dated: March 27, 2009

HOSIE RICE LLP

/s/ George F. Bishop
 Spencer Hosie
 shosie@hosielaw.com

Bruce Wecker
bwecker@hosiellaw.com
George F. Bishop
gbishop@hosiellaw.com
HOSIE RICE LLP
188 The Embarcadero, Suite 750
San Francisco, California 94105
Telephone: (415) 247-6000
Facsimile: (415) 247-6001

*Attorney for Defendant/Counter-claimant
Implicit Networks, Inc. in CV 09-0201
and Attorney for Plaintiff/Counter-defendant in CV-
09-1342*

Dated: March 27, 2009

FISH & RICHARDSON P.C.

/s/ Katherine Kelly Lutton

Katherine Kelly Lutton (CA Bar No. 194971)
lutton@fr.com

Robert J. Kent (CA Bar No. 250905)
RJKent@fr.com

FISH & RICHARDSON P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063-1526
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

Barbara A. Benoit (*Pro Hac Vice*)
FISH & RICHARDSON P.C.
1425 K Street, N.W., Suite 1100
Washington, DC 20005
Telephone: (202) 783-5070
Fax: (202) 783-2331
E-mail: benoit@fr.com

*Attorney for Plaintiff/Counter-defendant
Sun Microsystems Incorporated*

Date: March 27, 2009

/s/ Frank E. Scherkenbach

Frank E. Scherkenbach (CA Bar No. 142549)
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070

Email: scherkenbach@fr.com

Jason W. Wolff (CA Bar No. 215819)
FISH & RICHARDSON P.C.
12390 El Camino Real
San Diego, CA 92130
Telephone: (858) 678-5070
E-mail: wolff@fr.com

Attorney for Defendant Adobe Systems, Incorporated

Date: March 27, 2009

/s/ Katherine Kelly Lutton
Katherine Kelly Lutton (CA Bar No. 194971)
Robert J. Kent (CA Bar No. 250905)
FISH & RICHARDSON P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063
Telephone: (650) 839-5070
Fax: (650) 839-5071
E-mail: lutton@fr.com; RJKent@fr.com

Attorneys for Defendant SAP America Inc.

Date: March 27, 2009

/s/ Amy H. Candido
Amy H. Candido (CA Bar. No. 237829)
QUINN EMANUEL URQUHART OLIVER &
HEDGES, LLP
50 California Street, 22nd Floor
San Francisco, CA 94111
Telephone: 415-875-6600
Fax: 415-875-6700
E-mail: amycandido@quinnemanuel.com

Robert W. Stone (CA Bar No. 163513)
Doug Colt (CA Bar No. 210915)
QUINN EMANUEL URQUHART OLIVER &
HEDGES, LLP
555 Twin Dolphin Drive, Suite 560
Redwood Shores, California 94065
Telephone: (650) 801-5000
Fax: (650) 801-5100
E-mail: robertstone@quinnemanuel.com;
dougcolt@quinnemanuel.com

*Attorneys for Defendant International Business
Machines Corporation*

CERTIFICATION PURSUANT TO GENERAL ORDER 45

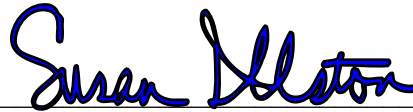
Pursuant to General Order 45X.B, I, George Bishop, attest that the above
signatories have concurred and consented to the filing of this document.

DATED: March 27, 2009

/s/George F. Bishop
George F. Bishop

1 **PURSUANT TO STIPULATION IT IS SO ORDERED**

2 Dated: _____



Honorable Susan Illston
JUDGE OF THE U.S. DISTRICT COURT

CERTIFICATE OF SERVICE

I, Janine DeAndre, am a citizen of the United States and am employed in the County of San Francisco, State of California. I am over the age of 18 years and am not a party to the within action. My business address is Hosie Rice LLP, 188 The Embarcadero, Suite 750, San Francisco, California, 94105.

On March 27, 2009, I served the following attached:

STIPULATED MOTION TO CONSOLIDATE CASES PURSUANT TO FED. R. CIV. P. 42(A) AND [PROPOSED] ORDER

by E-mail at San Francisco, California, addressed to the following parties:

Katherine Kelly Lutton (CA Bar No. 194971)

lutton@fr.com

Robert J. Kent (CA Bar No. 250905)

RJKent@fr.com

FISH & RICHARDSON P.C.

500 Arguello Street, Suite 500

Redwood City, California 94063-1526

Telephone: (650) 839-5070

Facsimile: (650) 839-5071

Barbara A. Benoit (*Pro Hac Vice*)

FISH & RICHARDSON P.C.

1425 K Street, N.W., Suite 1100

Washington, DC 20005

Telephone: (202) 783-5070

Fax: (202) 783-2331

E-mail: benoit@fr.com

Attorney for Plaintiff/Counter-defendant

Sun Microsystems Incorporated

Frank E. Scherkenbach (CA Bar No. 142549)

FISH & RICHARDSON P.C.

225 Franklin Street

Boston, MA 02110-2804

Telephone: (617) 542-5070

Email: scherkenbach@fr.com

1 Jason W. Wolff (CA Bar No. 215819)
2 FISH & RICHARDSON P.C.
3 12390 El Camino Real
4 San Diego, CA 92130
5 Telephone: (858) 678-5070
6 E-mail: wolff@fr.com

7 *Attorney for Defendant Adobe Systems, Incorporated*

8 Katherine Kelly Lutton (CA Bar No. 194971)
9 Robert J. Kent (CA Bar No. 250905)
10 FISH & RICHARDSON P.C.
11 500 Arguello Street, Suite 500
12 Redwood City, California 94063
13 Telephone: (650) 839-5070
14 Fax: (650) 839-5071
15 E-mail: lutton@fr.com; RJKent@fr.com

16 *Attorneys for Defendant SAP America Inc.*

17 Amy H. Candido (CA Bar. No. 237829)
18 QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP
19 50 California Street, 22nd Floor
20 San Francisco, CA 94111
21 Telephone: 415-875-6600
22 Fax: 415-875-6700
23 E-mail: amycandido@quinnemanuel.com

24 Robert W. Stone (CA Bar No. 163513)
25 Doug Colt (CA Bar No. 210915)
26 QUINN EMANUEL URQUHART OLIVER &
27 HEDGES, LLP
28 555 Twin Dolphin Drive, Suite 560
Redwood Shores, California 94065
Telephone: (650) 801-5000
Fax: (650) 801-5100
E-mail: robertstone@quinnemanuel.com; dougcolt@quinnemanuel.com

Attorneys for Defendant International Business Machines Corporation

1 I certify under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

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4 DATED: March 27, 2009

5 /s/ Janine DeAndre
6 Janine DeAndre
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